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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte SUKENDEEP SAMRA, MAKOTO KAWAMURA, SHINGO
KAWABE, and KYOKO NAKAMURA

Appeal 2009-006416
Application 09/930,115
Technology Center 2600

Before ROBERT E. NAPPI, JOHN C. MARTIN, and
BRADLEY W. BAUMEISTER, *Administrative Patent Judges*.

MARTIN, *Administrative Patent Judge*.

DECISION ON APPEAL¹

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF THE CASE

This is an appeal under 35 U.S.C. § 134(a) from the Examiner's rejection of claims 21-24, which are all of the pending claims.

We have jurisdiction under 35 U.S.C. § 6(b). We affirm.

A. Appellants' invention

Appellants' invention is a digital processing system that uses a graphical representation of operations to advantageously accomplish processing of digital media productions. Specification [10].²

Figure 4A is reproduced below.

² References herein to Appellants' Specification are to the Application as filed rather than to corresponding Patent Application Publication 2002/0158887 A1.

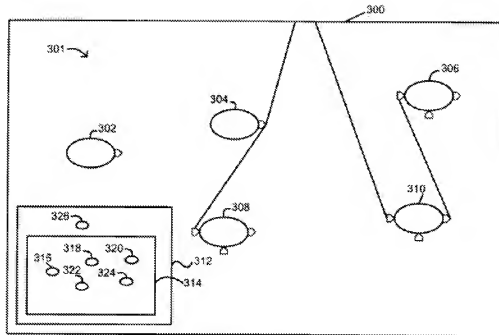


Fig. 4A

Figure 4A illustrates “navigator viewing” as applied to viewing a relatively large flowgraph (*id.* at [85]). Display screen 300, in the section that does not include screen area 312 (which includes screen area 314), depicts a portion 301 of a flowgraph as nodes 302-10 and their connecting lines (*id.* at [86]). Nodes 316-26 in navigator box 312 provide a miniature representation of the entire flowgraph but without their connecting lines (*id.* at [87]). Nodes 316-24 in mini screen 314 correspond to nodes 302-10 of flowgraph portion 301 (*id.*). Node 326 in navigator box 312 corresponds to an off-screen node not shown in flowgraph portion 301 (*id.*). The user can tell from navigator box 312 that scrolling the display screen view upwards will bring node 326 within view as part of flowgraph portion 301 (*id.*). Navigator box 312 is preferably large enough to include viewing space

around all four sides of mini screen 314 so that the user can effectively see what will come into view if the display screen view is scrolled in different directions (*id.* at [88]).

B. The claims

The independent claims before us are claims 21 and 24. Claim 21 reads as follows:

21. A method for viewing an image on a display screen, wherein the image includes a plurality of nodes in a flowgraph, wherein lines are used to interconnect a first set of nodes in the plurality of nodes that are displayed in a section of the display screen, wherein a portion of the image is displayed in the section of the display screen and wherein portions of the image are off-screen, the method comprising:

displaying a navigator box on the display screen, wherein the navigator box provides a miniature representation of a second set of nodes of the plurality of nodes;

displaying an inner box within the navigator box, wherein the inner box provides a miniature representation of the first set of nodes of the plurality of nodes in the flowgraph, wherein edges of the inner box correspond to edges of the display screen;

displaying a miniature version of the portion of the image on the display screen within the inner box in correspondence with the portion of the image's position with respect to the edges of the display screen, wherein the portions of the off-screen image are shown in miniature within the area of the navigator box that is outside of the inner box such that the first set of nodes and the second set of nodes display the plurality of nodes in the flowgraph in the navigator box and the inner box; and

omitting display of the lines interconnecting the plurality of nodes in the flowgraph displayed within the inner box and the navigator box while lines interconnecting the first set of nodes are displayed in the section of the display screen.

Claims App. (Br. 13).³

C. The references

The Examiner's rejections are based on the following references:

Hama	US 4,751,507	June 14, 1988
Mederer	US 5,864,782	Jan. 26, 1999

Project Management Environment, 32 IBM Technical Disclosure Bulletin 250-54 (Feb. 1, 1990) [hereinafter IBM].⁴

D. The rejections

Claims 22 and 23 stand rejected under 35 U.S.C. § 112, second paragraph, for being indefinite. Final Action 3.

Claims 21-24 stand rejected under 35 U.S.C. § 103(a) for obviousness over Hama in view of IBM and Mederer. *Id.* at 4, para. 7.

THE § 112, SECOND PARAGRAPH, REJECTION

Claims 22 and 23 read as follows:

22. The method of claim 21, wherein the plurality of nodes includes *the at least one node* and *an outer node*, wherein the outer node in the plurality of nodes is included in the off-screen

³ Appeal Brief filed October 16, 2007.

⁴ The Examiner has numbered the pages of the copy of IBM of record as 1 through 9.

image, wherein the outer node is shown within the area of the navigator box that is outside of the inner box.

23. The method of claim 21, wherein omitting display of the lines interconnecting the plurality of nodes comprises omitting display of a line interconnecting *the at least one node and the outer node*.

Claims App. (Br. 13-14).

The Examiner considers these claims to be indefinite in two respects. The first is that the phrase “the at least one node” in each claim lacks any antecedent basis because parent claim 21, which previously provided an antecedent basis by reciting “at least one node,” has been amended to replace that phrase with a “first set of nodes.” Final Action 3, para. 5. Second, the Examiner concludes that the term “an outer node” in claims 22 and 23 is undefined and therefore indefinite. An Amendment filed on March 16, 2007, in response to this § 112 rejection was denied entry in the Advisory Action mailed May 16, 2007.

Appellants’ only argument in the Brief regarding this ground of rejection is to challenge the Examiner’s refusal to enter the proposed Amendment. As correctly pointed out in the Answer (at page 2, paragraph 6), an Examiner’s refusal to enter an amendment submitted after a final rejection is a petitionable rather than an appealable matter. MPEP § 1002.02(c), para. (3)(g) (rev. July 2008).

The § 112 rejection of claims 22 and 23 is sustained.

THE § 103(a) REJECTION

Hama's invention relates to a method for creating simultaneously viewable coarse and fine resolution display images. Hama, col. 1, ll. 11-13.

Figure 5 is reproduced below.

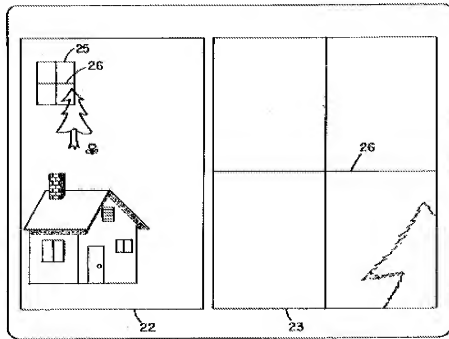


FIG. 5

Figure 5 shows one example of an image displayed in accordance with Hama's invention (col. 2, l. 34). Display areas 22 and 23 are produced by a display device 6 (Fig. 1; col. 2, l. 53). Display area 22 provides a coarse display of the entire stored image (col. 3, ll. 10-12). Display area 23 provides an enlarged view of the subject matter outlined by a cursor 25 in display area 22 (col. 4, ll. 34-35). The operator can scan the entire coarse

image by moving the cursor and simultaneously observe details within the outlined partial image (col. 4, ll. 42-45).

The Examiner reads the recited “navigator box” on display area 22 and the “inner box” on cursor 25 (Final Action 5) and presumably reads the recited “section of the display screen” on display area 23 and the recited “display screen” on the combination of display areas 22 (including cursor 25) and 23. The Examiner finds that Hama fails to disclose displaying nodes of a flowgraph and relies on IBM and Mederer for such a teaching. *Id.* at 4-6. The Examiner further relies on Mederer for a teaching of omitting the connecting lines when displaying nodes of a flowgraph in Hama’s display area 22 and cursor 25. *Id.* at 6.

IBM, which does not have any drawings, describes a Project Management Environment (PME) that can be used to “generate and display flowcharts – diagrams of activities and their sequence.” IBM 6. The Examiner (Answer 11-12) finds that “IBM . . . teaches displaying a flowchart that is larger than the display and allowing the user to scroll through the flowchart to view different areas of the flowchart,” quoting as support the following passage from page 6 of IBM:

In general, the PME user will be provided with scrollable screens which display and describe the contents of each data field and record in each of the project data tables. The user will be able to add, modify or delete data from any field in any table. These functions are common to most project management program products. In the case of the activity linkages tables, the PME user will be able to manipulate data in these tables directly from the flowchart display.

Appellants agree with the Examiner's above characterization of IBM, stating that "IBM discloses that a scroll bar is used to allow a user to scroll through different areas of a flowchart." (Reply Br. 5.) Appellants in the Brief do not challenge the Examiner's conclusion that "[i]t would have been obvious . . . to display a flowgraph image in Hama because a flowgraph is an image corresponding to a computer controlled graphic application and because the IBM Technical Disclosure Bulletin teaches displaying a flowchart image that is larger than the display." Final Action 6-7.

The Examiner relies on Figures 1-3 of Mederer for a teaching of alternatively displaying the nodes of a flowchart with or without their connecting lines. *Id.* at 6. Mederer discloses a monitoring system for an industrial or technical plant, in particular a power station plant, having a number of plant parts that can be displayed as information elements on a display unit. Mederer, col. 1, ll. 13-16.

Figure 1 of Mederer is reproduced below.

FIG.1

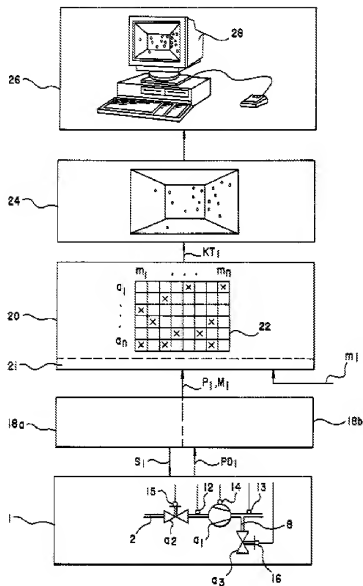


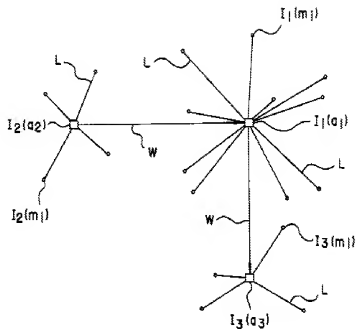
Figure 1 is a block diagram of a system of Mederer's system (col. 4, ll. 13-14). A plant (e.g., power station plant) component 1 includes the following parts: a pump a_1 ; a steam valve a_2 ; a blow-off control valve a_3 ; and sensors 12-16 (col. 4, ll. 29-38). Information system 18a, 18b is responsive

to process data PD_i received from component 1 to generate parameters P_i and Messages M_i (col. 4, ll. 48-65). An analysis module 20 detects the presence of features m_i for each part a_i of the plant by using the parameters P_i or messages M_i (col. 4, ll. 8-11). A positioning module 24 assigns spatial coordinates to the parts a_i of the plant and/or the features m_i (col. 5, ll. 15-18). A graphic representation for the parts a_i of the plant and the features m_i is generated in a graphic module 26 on the basis of this spatial assignment (col. 5, ll. 39-41). Mederer explains that “information elements I_i (a_i) (shown in FIG. 3) for the parts a_i of the plant and information elements I_i (m_i) (shown in FIG. 3) for the features m_i are generated by the graphic module 26 and positioned on a display 28 on the basis of the spatial coordinates” (col. 5, ll. 42-46).⁵

Figure 2 is reproduced below.

⁵ In the quotations herein from the references, bolding of the reference numerals is omitted.

FIG.2



In Figure 2, the information elements $I_1(a_1)$ to $I_3(a_3)$ and $I_1(m_1)$ to $I_3(m_1)$ that are assigned to the parts a_1 to a_3 of the plant and the features m_i are shown together (col. 6, ll. 37-40).

Figure 3 is reproduced below.

FIG.3

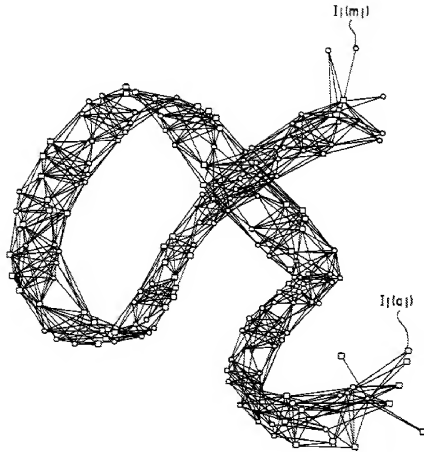


Figure 3 is a diagram showing a state complex characteristic of a trend of an operating behavior of the plant (col. 4, ll. 19-20).

The Examiner finds that

Mederer teaches . . . display[ing] with only nodes [i.e., nodes without connecting lines] when displaying a *large flowgraph* as seen in figure 1 and discussed at column 5 lines 42-46 and . . . display[ing] a flowgraph on a display with nodes and lines L when displaying a *smaller flowgraph* as seen in figure 2 which illustrates displaying a flowgraph for three nodes (a1, a2, a3) as discussed at column 6 lines 34-49.

Final Action 2, para. 3 (emphases added). It is clear that in this passage the Examiner is using the term “large flowgraph” to refer to a flowgraph having many nodes and the term “smaller flowgraph” to refer to a flowgraph having fewer nodes. *See also* Answer 7 (“[D]isplaying a large flowgraph in a small area of the display with the lines will make the nodes of the flowgraph indiscernible.”). Based on the above findings, the Examiner concluded that

Mederer suggests modifying Hama to display a flowgraph by displaying only nodes in the claimed inner box [Hama’s cursor 25] and the claimed navigator box [display area 22] because these display areas [will] show many nodes in a small display area and Mederer suggests modifying Hama to display in the claimed section of the display [display area 23], that displays a portion of the image, nodes and lines forming a portion of the flowgraph because this display area shows a few nodes in a larger display area.

Id. Appellants responded in the Brief with several arguments. The first is that

nowhere in the response or rejection does the rejection address a situation where lines interconnecting the plurality of nodes in the flow graph are omitted within the inner box and the navigator box while lines interconnecting the first set of nodes are displayed in a section of the display screen.

(Br. 11.) This argument is unpersuasive because it fails to address the Examiner’s above-quoted rationale for *combining* the teachings of the references so as to display flowchart nodes in display area 23 with interconnecting lines and display flowchart nodes in display area 22 and cursor 25 without such lines. Instead, Appellants attack the references individually. Specifically, Appellants argue that “[i]n Hama, the portion of

the tree shown in box 23 is shown in box 25. The rest of the picture is shown in box 22. These are the same exact images and no changes are made other than the image shown in box 23 magnifies a portion of the image in box 22.” (Br. 11). Appellants similarly fault Mederer for

suggest[ing] an all or nothing approach. Either nodes are displayed without any connecting lines or nodes are displayed with interconnecting lines. Nowhere in Mederer is it disclosed or suggested that the graph in Fig. 1 and the graph in Fig. 2 are displayed at the same time, and, even if they were displayed at the same time, they are not the same graph.

(*Id.* at 12.)

In the Reply Brief, Appellants offer several additional arguments that do not appear in the opening Brief. The first such argument is as follows:

In discussing claim 21, the Answer on page 7 states that Mederer teaches displaying only the nodes in the flowgraph when the flowgraph is very large and that figs. 2 and 3 teach displaying lines between nodes of the flowgraph when a few nodes are displayed. . . . *Nowhere in Mederer is it described that the dots shown in Fig. 1 are a graphic representation of Figure 2 or Figure 3 without lines.* That is, Mederer does not disclose or suggest that the graphic representation of Fig. 2 or Fig. 3 should be shown without lines.

(Reply Br. 4 (emphasis added).) This argument is belated and thus entitled to no consideration because the Examiner’s statement that Appellants attribute above to page 7 of the Answer also appears at page 6 of the Final Action. *See Ex parte Borden*, 93 USPQ2d 1473, 1473-74 (BPAI 2010)

(“informative”⁶) (absent a showing of good cause, the Board is not required to address an argument newly presented in the Reply Brief that could have been presented in the principal Brief on Appeal). For the same reason, the following argument in the Reply Brief is belated and will not be considered:

The Answer also states that Figure 1 teaches displaying only the nodes in the flowgraph when the flowgraph is very large and Figures 2 and 3 teach displaying the lines between the nodes in the flowgraph when a few nodes are displayed. Applicants submit that *the number of nodes in Fig. 1 is not very large as compared to the nodes in Figures 2 and 3. In fact, the number of nodes in Fig. 3 is significantly larger than the number of nodes in Fig. 1.* However, Fig. 3 includes lines displayed. Thus, applicants submit that Mederer does not teach that only nodes are displayed when a flowgraph is very large.

(Reply Br. 4 (emphasis added).)

The Reply Brief also notes that “[t]he Answer states that displaying an entire large flowgraph in a small area display with lines will make the nodes of the flowgraph indiscernible from other nodes and lines” and explains why this statement is believed to lack support in Hama, Mederer, or IBM. (Reply Br. 5.) This explanation is belated and thus will not be considered because the statement to which Appellants refer also appears at page 7 of the Final Action.

For the foregoing reasons, the obviousness rejection of claim 21 is sustained, as is the obviousness rejection of independent claim 24, regarding

⁶ Designated as an “Informative Opinion” at <http://www.uspto.gov/ip/boards/bpai/decisions/inform/index.jsp>.

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which Appellants rely on their claim 21 arguments (Br. 12). For the same reasons, the obviousness rejection of dependent claims 22 and 23, which are not separately argued, is sustained. *In re Nielson*, 816 F.2d 1567, 1572 (Fed. Cir. 1987).

DECISION

The rejection of claims 22 and 23 under 35 U.S.C. § 112, second paragraph, for being indefinite is sustained.

The rejection of claims 21-24 under 35 U.S.C. § 103(a) for obviousness over Hama in view of IBM and Mederer is sustained.

The Examiner's decision that claims 21-24 are unpatentable is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1). *See* 37 C.F.R. § 1.136(a)(1)(v) (2010).

AFFIRMED

gvw

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